

AMENDED IN SENATE JANUARY 5, 1998

AMENDED IN SENATE APRIL 21, 1997

**SENATE BILL**

**No. 1143**

**Introduced by Senator Sher**

February 28, 1997

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An act to amend Section ~~4756~~ of, ~~and to add Section 3008.5 to, the Fish and Game Code, relating to wildlife.~~ 12005 of, and to add Section 12005.1 to, the Fish and Game Code, relating to wildlife, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1143, as amended, Sher. Wildlife: *bear parts*.

(1) Existing law makes it unlawful to sell, purchase, or possess for sale, the meat, skin, hide, teeth, claws, or other parts of any bear in this state, except as provided. Under existing law, the maximum punishment for a violation of this provision is a fine of \$5,000, or \$10,000 if 3 or more bear gall bladders are possessed, imprisonment in the state prison or the county jail for not more than one year, or both the fine and imprisonment.

This bill would impose an additional fine for a violation of the above provision equal to 5 times the actual market price of the meat, skin, hide, teeth, claws, or other bear parts that were unlawfully sold, purchased, or possessed. Under the bill, the Department of Fish and Game would be required to develop, maintain, and make available to the state courts, an index entitled "Actual Market Price Index for Bear Parts" that would list the actual market price of bear parts, as specified.

*Because the bill would increase the penalty for an existing crime, the bill would impose a state-mandated local program.*

~~(1) Existing law authorizes the use of dogs to take mammals, including bears. Existing law delegates to the Fish and Game Commission the regulation of hunting of mammals. For purposes of the Fish and Game Code, “take” is defined to mean hunt, pursue, catch, capture, or kill, or attempt any of those acts.~~

~~This bill would make it unlawful to use dogs to take, pursue, or molest bears or bobcats. Because existing law would make a violation of any of these prohibitions a crime, the bill would create a new crime by prohibiting the molestation of bears and bobcats, thereby imposing a state-mandated local program.~~

~~(2) Existing law specifically relating to bears prohibits the use of dogs in the hunting of bears except under certain specified circumstances.~~

~~This bill would repeal those exceptions.~~

~~(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) *Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department to pay all necessary expenses incurred in carrying out and enforcing the Fish and Game Code.*

*By imposing new duties on the department, the bill would make an appropriation.*

Vote: majority. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Section 3008.5 is added to the Fish and~~
- 2 *SECTION 1. Section 12005 of the Fish and Game*
- 3 *Code is amended to read:*

1 12005. (a) Notwithstanding Section 12000, and  
2 *except as otherwise provided in subdivision (c), the*  
3 ~~maximum~~ punishment for each violation of Section 4758  
4 *shall include both of the following:*

5 (1) *A fine of five times the actual market price, as*  
6 *determined by the department, of the meat, skin, hide,*  
7 *teeth, claws, or other bear parts that were illegally sold,*  
8 *purchased, or possessed for sale.;*~~except as otherwise~~  
9 ~~provided in subdivision (c), is a~~

10 (2) *An additional fine of not more than five thousand*  
11 *dollars (\$5,000), imprisonment in the state prison or the*  
12 *county jail for not more than one year, or both the fine*  
13 *and imprisonment.*

14 (b) If the conviction is for the possession of two bear  
15 gall bladders and probation is granted, or if the execution  
16 or imposition of sentence is suspended, it shall be a  
17 condition thereof that a minimum term of 30 days shall be  
18 served in the county jail.

19 (c) (1) The possession of three or more bear gall  
20 bladders is punishable by ~~a~~*both of the following:*

21 (A) *The fine specified in paragraph (1) of subdivision*  
22 *(a).*

23 (B) *An additional fine of not more than ten thousand*  
24 *dollars (\$10,000), imprisonment in the county jail for not*  
25 *more than one year, or both that fine and imprisonment.*  
26 ~~If~~

27 (2) *If* probation is granted, or the execution or  
28 imposition of sentence is suspended, it shall be a condition  
29 thereof that a minimum term of three months shall be  
30 served in the county jail.

31 (d) Consecutive sentences shall be imposed for  
32 separate violations of this section.

33 SEC. 2. *Section 12005.1 is added to the Fish and Game*  
34 *Code, to read:*

35 *12005.1. The department shall develop, maintain, and*  
36 *make available to the state courts, an index entitled*  
37 *“Actual Market Price Index for Bear Parts.” The index*  
38 *shall list the actual market price for bear parts, including,*  
39 *but not limited to, the actual market price for bear skin,*  
40 *hide, teeth, paws, claws, claw jewelry, and fresh, dried,*

1 *and powdered gall bladders. The department shall*  
2 *update the index not less than every two years.*

3 ~~Game Code, to read:~~

4 ~~3008.5. (a) Notwithstanding any other provision of~~  
5 ~~law, it is unlawful to use dogs to take, pursue, or molest~~  
6 ~~bears or bobcats.~~

7 ~~(b) For the purposes of this section, "pursue" means to~~  
8 ~~track, run, or hound for the purpose of sport hunting.~~

9 ~~SEC. 2. Section 4756 of the Fish and Game Code is~~  
10 ~~amended to read:~~

11 ~~4756. It is unlawful to use dogs to hunt, pursue, or~~  
12 ~~molest bears.~~

13 SEC. 3. No reimbursement is required by this act  
14 pursuant to Section 6 of Article XIII B of the California  
15 Constitution because the only costs that may be incurred  
16 by a local agency or school district will be incurred  
17 because this act creates a new crime or infraction,  
18 eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section  
20 17556 of the Government Code, or changes the definition  
21 of a crime within the meaning of Section 6 of Article  
22 XIII B of the California Constitution.

23 Notwithstanding Section 17580 of the Government  
24 Code, unless otherwise specified, the provisions of this act  
25 shall become operative on the same date that the act  
26 takes effect pursuant to the California Constitution.